

October 21, 1999

John W. Colvin, Treasurer-Manager
Butte Public Employee FCU
2901 Grand Ave.
Butte, Montana 59701

Re: Conflict of Interest and 12 C.F.R. 701.21(c)(8).

Dear Mr. Colvin:

You have asked whether the chairman of your federal credit union's (FCU) board of directors, who is an attorney, may perform legal work for the FCU, being paid on a monthly retainer basis, including preparation of collection letters for delinquent loans. You have specifically requested an interpretation of the conflicts of interest provision in our lending regulation. 12 C.F.R. §701.21(c)(8)(i).

Generally, an FCU's outside legal counsel may serve on the FCU's board but, like all directors, he or she may not participate in the deliberations or determination of any question affecting his or her pecuniary interest. Federal Credit Union Bylaws, Article 16, Section 4. Our opinion is that preparation of collection letters, whether payment is on a fee or retainer basis, is work in connection with a credit union loan and is impermissible under our lending regulation.

Our lending regulation prohibits officials and senior management from receiving compensation in connection with lending. It states:

Except as otherwise provided herein, no official or employee of a Federal credit union, or immediate family member of an official or employee of a Federal credit union, may receive, directly or indirectly, any commission, fee, or other compensation in connection with any loan made by the credit union.

12 C.F.R. §701.21(c)(8)(i). The term official is defined in the regulation and includes directors. 12 C.F.R. §701.21(c)(8)(ii). Our interpretation is that the collection of delinquent loans, including the preparation of collection letters, is an activity in connection with lending.

We have enclosed the following letters providing additional discussion of outside counsel serving on the board of directors that you may find useful: Letter from Timothy P. McCollum to Dennis J. Grotrian, dated November 7, 1988; Letter from Richard S. Schulman to Roderick R. Rovzar, dated March 16, 1995; Letter from Sheila A. Albin to Mike Davis, dated June 17, 1999.

Sincerely,

Sheila A. Albin
Associate General Counsel

GC/CJL/SAA:bhs
SSIC 3500
99-0847
Enclosures

cc: Region VI